DEC 4 1922
WM. R. STANSB
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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1922

No. 191

THE UNITED STATES OF AMERICA,
Petitioner,

versus

A. C. LOUCKS, ET AL.

On Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit.

BRIEF FOR RESPONDENTS.

S. L. HEROLD,
R. L. BATTS,
J. A. THIGPEN,
E. P. LEE,
J. D. WILKINSON,
Solicitors for Respondents.

Montgomery-Andree Printing Co., Inc., 807 Chartres Street, N. O., La

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BRIEF FOR RESPONDENTS.

The Government's petition for *certiorari* rested upon the argument that,

> "The case is similar to United States v. Charles J. Green, Jr., et al., No. ———, which is now before this Court on appeal. These two cases were heard together in the Court below. Other cases presenting the same question are now before this Court on appeal. (United States v. Gulf Refining Company of Louisiana, No. 501, now 161; United States v. Gulf

> Refining Company of Louisiana, et al., No. 503, now 163; United States v. C. W. Lane, et al., No. 500, now 160; United States v. Southwestern Gas & Electric Company, et al., No. 502, now 162.) It is desirable that there should be uniformity of decision. Neither the Government nor the defendants ought to be subjected to conflicting decisions, especially since the rights and interests of the defendants and the Government are the same in all."

Respondents made no opposition to the allowance of the writ, and same was granted upon the petition.

It is manifest that, in so far as the Government's contentions now rest upon matters not set up as grounds for review, they cannot be here raised.

ARGUMENT.

The Government urges, however, that "the Court of Appeals was without authority to reverse that part of the decree of the District Court adjudging title to be in the United States, none of the defendants having any exception to that part of the Master's report finding the United States to be the owner of the disputed area."

Defendants did, however, assign as error on their appeal, holding of the District Court sustaining the Government's contention of ownership. Record, 55.

The Government prosecuted and perfected, also, a cross-appeal. Record, 50-52.

No objection was made in the Circuit Court of Appeals that such exception had not been taken to the Master's report, and the Circuit Court of Appeals did, on the assignment of errors, proceed to reverse the decree of the District Court, and rejected the claim of the United States. Record, 90.

Laying to one side the answer that the Master's report affirmatively shows (Record, 40) that the defendants urged their claim before him, it is submitted that, having obtained the review of this case by this Court on *certiorari*, petitioner cannot be heard to urge contentions for reversal inconsistent with the theory upon which the writs were granted; that the issues to be presented were identical with those in the other cases mentioned in the Solicitor General's petition.

ON THE MERITS.

The issues are in fact identical with those in the cases referred to in the petition for *certiorari*.

Defendants hold title under patent (Record, 86) "according to the official plat of the survey of the said lands returned to the general land office by the surveyor general" to "the northeast quarter of the southeast quarter and the northeast fractional quarter of section twenty-seven in township twenty of range sixteen." Such tracts are shown on "the official plat of survey" to border upon Ferry Lake, a navigable body of water. By a resurvey the United States has attempted to create a new subdivision, styled "Lot number one of section twenty-seven", between the meander line

and the high water mark, with an area of 14.13 acres. (Record, 60.)

The Circuit Court of Appeals held that there was nothing in the facts or circumstances brought out by oral and documentary evidence to take the case out of the settled rule that meander lines are not lines of boundary, but are shown merely to denote generally the sinuosities of the body of water which in fact constitutes the boundary.

The case is thoroughly treated in the opinion of the Circuit Court of Appeals, and the principles applicable are fully discussed in our brief in Nos. 160, 161, 162 and 163, which will be argued with this case.

It is submitted that the judgment of the Circuit Court of Appeals is right, and should be affirmed.

Respectfully submitted,

S. L. HEROLD,
R. L. BATTS,
J. A. THIGPEN,
E. P. LEE,
J. D. WILKINSON,
Solicitors for Respondents.